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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,014	08/24/2001	Janet Marie Wasowicz	2100632-991122	3590

7590

03/09/2004

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EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,014

Applicant(s)

WASOWICZ ET AL.

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-18, 21-36, 39-54, 57-77, 95-103, 105-113, 115-123 and 125-133 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-18, 21-36, 39-54, 57-77, 95-103, 105-113, 115-123 and 125-133 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 14.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: re: Terminal Disclaimer.

DETAILED ACTION

Status of Claims

In response to the amendment filed on 11/21/03, Claims 3-18, 21-36, 39-54, 57-77, 95-103, 105-113, 115-123, and 125-133 are pending.

Terminal Disclaimer

The terminal disclaimer filed on 7/23/02 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,299,452 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

The indicated allowability of claims 3-4, 6,11, 13, 15-17, 21-22, 24, 29, 31, 33-35, 39-40, 42, 47, 49, 51-53, 58-59, 61, 66, 68, 70-72, 86-89, 96-98, 106-108, and 126-128 is withdrawn in view of Walker (US 5,421,731), Corder (US 5,302,132), Block et al. (US 6,305,942), and Protopapas et al. (US 5,868,683). Rejections based on the reference(s) follow.

Specification

The disclosure is objected to because of the following informalities: Page 1, line 1: "priority" should be "benefit".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 9, 16, 33-34, 44-45, 63-64, 68-71, 73, 75, 96-103, 105-113, 115-123, and 133 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 5 recites the limitation "the user input device" in line 1. There is insufficient antecedent basis for this limitation in the claim.
- Claim 9 recites the limitation "the test taker" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- Claim 16 recites the limitation "the speech recognition device" in line 14. There is insufficient antecedent basis for this limitation in the claim.
- Claim 33 recites the limitation "the speech recognition device" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- Claim 34 recites the limitation "the speech recognition device" in line 7. There is insufficient antecedent basis for this limitation in the claim.
- Claim 44 recites the limitation "the test taker" in line 4. There is insufficient antecedent basis for this limitation in the claim.

- Claim 45 recites the limitation "the test taker" in line 4. There is insufficient antecedent basis for this limitation in the claim
- Claim 63 recites the limitation "the test taker" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- Claim 64 recites the limitation "the test taker" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- Claim 68 recites the limitation "the server computer" in line 9. There is insufficient antecedent basis for this limitation in the claim.
- Claim 70 recites the limitation "the speech recognition device" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- Claim 71 recites the limitation "the speech recognition device" in line 7. There is insufficient antecedent basis for this limitation in the claim.
- Claim 75 recites the limitations "the server" and "the client computer" in line 2. There is insufficient antecedent basis for these limitations in the claim.
- Claim 96 recites the limitation "the computer system" in line 5. There is insufficient antecedent basis for this limitation in the claim.
- Claim 96 recites the limitation "the individual" in line 9. There is insufficient antecedent basis for this limitation in the claim.
- Claim 100 recites the limitation "the recommending" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.
- Claim 100 recites the limitation "the training module" in line 3. There is insufficient antecedent basis for this limitation in the claim.

- Claim 105 recites the limitation "the recommended training module" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- Claim 106 recites the limitation "the computer system" in line 5. There is insufficient antecedent basis for this limitation in the claim.
- Claim 106 recites the limitation "the individual" in line 9. There is insufficient antecedent basis for this limitation in the claim.
- Claim 109 recites the limitation "the baseline abilities" in line 3. There is insufficient antecedent basis for this limitation in the claim.
- Claim 116 recites the limitation "the computer system" in line 5. There is insufficient antecedent basis for this limitation in the claim.
- Claim 119 recites the limitation "the baseline abilities" in line 3. There is insufficient antecedent basis for this limitation in the claim.
- Claim 132 recites the limitations "the responses" and "the scores" in lines 2 and 4, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-32 and 35-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a claim to pass muster, the recited limitations must somehow apply, involve, use, or advance the technological arts.

In the present case, Claims 21-32 and 36 only recite an abstract idea. The recited steps of merely questioning the individual to elicit information about risk factors associated with language-based learning abilities, presenting one or more stimuli to the individual, receiving a response from the individual to each stimulus, and scoring the user's responses to each test does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement a test.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention questions the individual to elicit information about risk factors associated with language-based learning abilities, presents one or more stimuli to the individual,

receives a response from the individual to each stimulus, and scores the user's responses to each test (i.e., concrete, useful, and tangible).

In the present case, Claim 35 only recites an abstract idea. The recited steps of merely presenting one or more stimuli to the individual, displaying a visual stimulus to the user, and in response to the visual stimulus, receiving a response from the user, receiving a response from the individual to each stimulus, and scoring the user's responses to each test does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement a test.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention presents one or more stimuli to the individual, displays a visual stimulus to the user, and in response to the visual stimulus, receives a response from the user, receiving a response from the individual to each stimulus, and scores the user's responses to each test does not apply, involve, use, or advance the technological arts since all of the recited limitations can be performed in the mind of the user or by use of a pencil and paper. These limitations only constitute an idea of how to implement a test (i.e., concrete, useful, and tangible).

Although the recited system produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained

above, claims 21-32 and 35-36 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4, 21-24, 33, 36, 39-40, 58-59, 75-77, 95-103, 105-113, 115-123, and 125-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Protopapas et al. (US 5,868,683).

1. [Claims 3-4, 21-22, 39-40, 58-59, 96-98, 106-108, 116-118, 126-128]: Regarding Claims 3-4, 21-22, 39-40, 58-59, 96-98, 106-108, 116-118, and 126-128, Corder does not disclose expressly a questionnaire (i.e., RD-predictive acoustical test) having one or more questions (i.e., asking the user to respond whether they perceive a pair of tonal stimuli to have the same or different frequencies) for eliciting information about risk factors (e.g., difficulties in mapping a particular sound to a speech sound in the mind) associated with language-based learning disabilities. Corder does not disclose wherein the information comprise historical data about reading-related risk factors including one or more of medical conditions including chronic otitis media, family history data including history of dyslexia, environmental data including socioeconomic stats and exposure to

literacy at home and observational data (i.e., a person encountering difficulty in mapping a particular spoken sound to a speech sound in the mind). However, Protopapas teach such in Col.4: 11-24 and Col.5: 27-36. Corder does not disclose expressly wherein the computer managed instruction further comprises generating a category of risk of language-based learning disabilities for a particular user based on the information about the risk factors and generating a recommendation based on the category of risk (i.e., administering RD-predictive acoustical tests repeatedly). However, Protopapas teach such in Col.5: 19-23. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of Protopapas in order to treat a reading deficit in a human being.

2. [Claims 23, 33]: Regarding Claims 23 and 33, Corder discloses means (i.e., voice recording device) for speaking the verbal response into the speech recognition device for receiving and interpreting a verbal response from the user. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

3. [Claim 24]: Regarding Claim 24, Corder discloses wherein the one or more tests comprise a rhyme generation test for testing the ability to generate rhymes (i.e. using rhyming words to complete sentences). See Col.14: 4.

4. [Claim 25]: Regarding Claim 25, Corder discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to

determine the user's ability to recognize rhyming words. See Col.13: 64. Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses rhyme a recognition test (i.e. recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e. to determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

5. [Claim 26]: Regarding Claim 26, Corder discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e. beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus. See Col.14: 1.

6. [Claim 27]: Regarding Claim 27, Corder discloses wherein the tests further comprise a test for recognizing the ending sound of a stimulus, the test comprising means for generating at least one stimulus having at least an ending phoneme (i.e. ending sound) and means for receiving a response to the stimulus that indicates the ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

7. [Claim 28]: Regarding Claim 28, Corder discloses wherein the tests further comprise a rhyme generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound that rhymes with the stimulus (i.e. using rhyming words to complete sentences). See Col.14: 4.

8. [Claim 30]: Regarding Claim 30, Corder discloses wherein the tests further comprise a sound segmentation test (i.e. identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14:

5. A recitation of the intended use of the claimed invention (i.e. in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. [Claim 36]: Regarding Claim 36, Corder discloses wherein the tests further comprise a fluency test comprising means for generating a plurality of visual stimuli and means for receiving a user's response to the visual stimuli within a predetermined time interval to determine the user's ability to read and understand the visual stimuli. See Col.14: 19-31.

10.[Claims 75-77,95]: Regarding Claims 75-77 and 95, Corder discloses means (i.e., network) for downloading the recommended training module. See Col.11: 59-62.

11.[Claims 99, 109, 119, 129]: Regarding Claims 99,109, 119, and 129, Corder discloses wherein the computer managed instruction further comprises tracking, over time, the proficiency of the user's phonological skills (i.e. ability to reproduce, recognize, pronounce, spell, and translate, communication skills necessary for use of the English

language, rules of grammar) and establishing the baseline abilities of the user (i.e. trend analysis). See Col.3: 42-53, Col.6: 12-16, 33, and Col.12: 18-25.

12.[Claims 100, 110, 120, 130]: Regarding Claims 100, 110, 120, and 130, Corder discloses wherein the one or more computer implemented tests further comprise scoring the responses to each test and wherein the recommending further comprises recommending the training module (i.e., identify an optimal cognitive strategy) based on the scores (i.e., results) of the one or more tests. See Col.3: 34-42.

13.[Claims 101, 111, 121, 131]: Regarding Claims 101, 111, 121, and 131, Corder does not disclose expressly generating a comparison of the scores of different users of the system. However, generating a comparison of scores of different users of a system is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate generating a comparison of scores of different users of the system in order to derive a trend analysis of the performance of the students.

14.[Claims 102, 112, 122, 132]: Regarding Claims 102, 112, 122, and 132, Corder discloses wherein the computer managed instruction further comprises performing statistical analysis (i.e., trend analysis) of the scores of the user. See Col.12: 18-25.

15.[Claims 103, 113, 123, 133]: Regarding Claims 103, 113, 123, and 133, Corder discloses wherein the computer managed instruction further comprises performing a timed test (i.e., time interval). See Col.14: 23-25.

16.[Claims 105, 115, 125]: Regarding Claims 105, 115, and 125, Corder discloses

means (i.e., network) for downloading the recommended training module. See Col.11: 59-62.

Claims 5-13, 15, 18, 29, 31, 41-49, 51, 54, 66, and 68, are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Block et al. (US 6,305,942).

1. [Claims 11,29,47,66]: Regarding Claims 11, 29, 47, and 66, Corder does not disclose expressly wherein the tests further comprise a sound blender test comprising means for generating at least two sound stimuli and means for receiving a user response to the at least two sound stimuli, the response indicating an ability to blend the at least two sound stimuli into a larger sound unit. However, Block teaches such (i.e., The highlighting cursor is utilized in the video and the interactive computer display to help students learn how the sounds blend with the words ... each sound of the combination of sounds is audibly demonstrated. Next the entire word is stated for the student to repeat.). See Col.7: 1-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test into the method and teaching of Corder, in light of the teaching of Block, in order to help students learn how sounds blend with words.

2. [Claim 5]: Regarding Claim 5, and 60, Corder discloses wherein the user input device of the one or more client computers comprise a speech recognition device for receiving a verbal response from the user to one or more tests. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

3. [Claims 6, 42]: Regarding Claims 6 and 42, Corder discloses wherein the one or more tests comprise a rhyme generation test for testing the ability to generate rhymes (i.e. using rhyming words to complete sentences). See Col.14: 4.

4. [Claims 7, 43]: Regarding Claims 7 and 43, Corder discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words. See Col.13:

64. Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses rhyme a recognition test (i.e. recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e. to determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

5. [Claims 8, 44]: Regarding Claims 8 and 44, Corder discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e. beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus. See Col.14: 1.

6. [Claims 9, 45]: Regarding Claims 9 and 45, Corder discloses wherein the tests further comprise a test for recognizing the ending sound of a stimulus, the test

comprising means for generating at least one stimulus having at least an ending phoneme (i.e. ending sound) and means for receiving a response to the stimulus that indicates the ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

7. [Claims 10, 46]: Regarding Claims 10 and 46, Corder discloses wherein the tests further comprise a rhyme generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound that rhymes with the stimulus (i.e. using rhyming words to complete sentences). See Col.14: 4.

8. [Claims 12, 48]: Regarding Claims 12 and 48, Corder discloses wherein the tests further comprise a sound segmentation test (i.e. identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14:

5. A recitation of the intended use of the claimed invention (i.e. in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. [Claims 13, 31,49,68]: Regarding Claims 13,31,49, and 68, Corder does not disclose expressly wherein the tests comprise a sound manipulation test comprising means for generating a sound stimulus having one or more sound units and means, in response to the sound stimulus, for manipulating the sound units of the sound stimulus

to test the ability to manipulate sound units. However, Block teaches such (i.e., Next the entire word is stated for the student to repeat. Students then read and write the words in their workbooks, so they know how to spell them). See Col.7: 1-9. The student's mouth (used to repeat) and the writing mechanism the student uses to write the words are considered to be means for manipulating sound units. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound manipulation test into the method and system of Corder, in light of the teaching of Block, in order to help students learn how sounds blend with words.

10. [Claims 15, 41, 51]: Regarding Claims 15,41, and 51, Corder discloses means (i.e., voice recording device) for speaking the verbal response into the speech recognition device for receiving and interpreting a verbal response from the user. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

11. [Claims 18, 54]: Regarding Claims 18 and 54, Corder discloses wherein the tests further comprise a fluency test comprising means for generating a plurality of visual stimuli and means for receiving a user's response to the visual stimuli within a predetermined time interval to determine the user's ability to read and understand the visual stimuli. See Col.14: 19-31.

Claims 14 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Block, as applied to Claims 11 and 49 above, and further in view of Jenkins et al. (US 6,331,115).

[Claims 14,50]: Regarding Claims 14 and 50, Corder/Block does not disclose expressly a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e. via selecting at least one corresponding tile that plays the same auditory phoneme). However, Jenkins teaches such in Col.3: 31-41. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder/Block, in light of the teaching of Jenkins, in order to train short-term memory.

Claim 16, 34, 52, 57, 60-65, 67, 70-71, and 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Corder (US 5,302,132), hereafter referred to as '132.

1. [Claims 16, 34,52,71]: Regarding Claims 16, 34, 52, and 71, Corder does not disclose expressly wherein the tests further comprise a naming test comprising means (i.e., first phonogram screen) for generating at least one visual stimulus (e.g., "b") and means, in response to the display of the visual stimulus for speaking the name of or the sound associated with the visual stimulus (i.e., microphone) using the speech recognition device (i.e., voice analysis). However, '132 teaches such in Col.20: 5-50. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of '132, in order to teach phonics.

2. [Claims 57,74]: Regarding Claim 57 and 74, Corder discloses means (i.e., network) for downloading the one or more training modules from the server computer to improve the skills of the individual. See Col.11: 59-62.

3. [Claim 60]: Regarding Claim 60, Corder discloses means (i.e., voice recording device) for speaking the verbal response into the speech recognition device for receiving and interpreting a verbal response from the user. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

4. [Claim 61]: Regarding Claim 61, Corder discloses wherein the one or more tests comprise a rhyme generation test for testing the ability to generate rhymes (i.e. using rhyming words to complete sentences). See Col.14: 4.

5. [Claim 62]: Regarding Claim 62, Corder discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words. See Col.13: 64.

Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses rhyme a recognition test (i.e. recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e. to determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

6. [Claim 63]: Regarding Claim 63, Corder discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e. beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus. See Col.14: 1.

7. [Claims 64]: Regarding Claim 64, Corder discloses wherein the tests further comprise a test for recognizing the ending sound of a stimulus, the test comprising means for generating at least one stimulus having at least an ending phoneme (i.e. ending sound) and means for receiving a response to the stimulus that indicates the ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

8. [Claim 65]: Regarding Claim 65, Corder discloses wherein the tests further comprise a rhyme generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound that rhymes with the stimulus (i.e. using rhyming words to complete sentences). See Col.14: 4.

9. [Claim 67]: Regarding Claim 67, Corder discloses wherein the tests further comprise a sound segmentation test (i.e. identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14: 5. A recitation of the intended use of the claimed invention (i.e. in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed

invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

10. [Claim 70]: Regarding Claim 70, Corder discloses wherein the user input device of the one or more client computers comprise a speech recognition device for receiving a verbal response from the user to one or more tests. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

11. [Claim 73]: Regarding Claim 73, Corder discloses wherein the tests further comprise a fluency test comprising means for generating a plurality of visual stimuli and means for receiving a user's response to the visual stimuli within a predetermined time interval to determine the user's ability to read and understand the visual stimuli. See Col.14: 19-31.

Claims 17, 35, 53, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Walker (US 5,421,731).

[Claims 17, 35,53,72]: Regarding Claims 17, 35,53, and 72, Corder does not disclose expressly a word decoder test comprising displaying a visual stimulus to the user and, in response to the visual stimulus (i.e., a word), receiving a response from the user to determine the ability to read the visual stimulus (i.e., verifying a pronunciation of a word). However, Walker teaches such in Col.1: 49-57 and Col.2: 5-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to

incorporate a word decoder test into the method and system of Corder, in light of the teaching of Walker, in order to teach reading.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Protopapas, as applied to Claim 21 above, and further in view of Jenkins et al. (US 6,331,115).

[Claim 32]: Regarding Claim 32, Corder/Block does not disclose expressly a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e. via selecting at least one corresponding tile that plays the same auditory phoneme). However, Jenkins teaches such in Col.3: 31-41. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder/Block, in light of the teaching of Jenkins, in order to train short-term memory.

Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Corder ('132), as applied to Claim 71, and further in view of Jenkins.

[Claim 69]: Regarding Claim 69, Corder/Corder does not disclose expressly a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e. via selecting at least one corresponding tile

that plays the same auditory phoneme). However, Jenkins teaches such in Col.3: 31-41. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder/Corder, in light of the teaching of Jenkins, in order to train short-term memory.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Bernstein (US 5,870,709)
 - language test
- Blass et al. (US 6,296,489)
 - speech language pathology diagnosis and therapy
- Nagarajan et al. (US 6,422,869)
 - downloadable software
- Tallal et al. (US 6,123,548)
 - training programs to practice language skills
- Merzenich et al. (US 5,813,862)
 - reading based disabilities

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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